IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5582 OF 1991

Seva Sadan & ors. .. Petitioners
Vs
The State of Maharashtra & ors. .. Respondents.

Mrs N.C.Nichani, for the petitioners.
Mrs S.S.Bhende, AGP for respondent nos 1 to 3.

CORAM : B.H.MARLAPALLE & D.B.BHOSALE,JJ.
DATE : APRIL 28, 2006.
PC:

1. This petition filed under Article 226 of the Constitution challenges the Collector's powers to levy non-agricultural assessment tax sought to be recovered under section 173 of the Maharashtra Land Revenue Code,1966.

2. There is no dispute that the petitioner no.1 is a registered public charitable trust and the learned counsel for the petitioners claims that the petitioner no.1 is entitled for exemption from non-agricultural assessment under the provisions of section 117 of the Maharashtra Land Revenue Code, 1966 and more particularly sub-section 4 thereunder. As per the learned counsel, the petitioner no.1 is a public charitable institute and the land given to it by the State government is being used for educational/charitable purposes and the benefit of which is open to all citizens without distinction of religion,

race, caste, place of birth or any of them.

3. Whether the petitioner no.1 is entitled for exemption under section 117(4) of the Maharashtra Land Revenue Code, 1966 is an issue which requires to be decided by the Collector, Thane (respondent no.2) on the basis of the bye-laws of the Trust as well as the activities, which have been carrying out (educational and charitable). We have noted that while granting the Rule, the interim relief in terms of prayer clause (d) was granted and as a result thereof the Collector was restrained from recovering the non-agricultural assessment dues amounting to Rs.51,113/- and 35,381/- from the petitioners.

4. We direct the petitioner no.1 to approach the Collector, Thane with an application seeking exemption under section 117(4) of the Maharashtra Land Revenue Code,1966 and if such an application is submitted within a period of four weeks from today, the Collector shall hear the petition and decide the application on its own merits as expeditiously as possible but in any case within a period of six months from its receipt. The interim order passed by this Court will remain in operation till the said application is decided subject to the condition that it is filed within a period of four weeks from today by

the petitioner no.1.

5. The petition is disposed in terms of the aforesaid directions. Rule discharged.

(D.B.BHOSALE, J.) **(B.H.MARLAPALLE,J.)**